
Introduced by Senator SotoFebruary 21, 2001

An act to add Section 23610.6 to the Revenue and Taxation Code, relating to housing, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 401, as introduced, Soto. Tax credits: second mortgages.

Existing law designates the California Tax Credit Allocation Committee as the state's housing credit agency for purposes of allocating federal housing tax credits. The Bank and Corporation Tax Law authorizes various credits against the taxes imposed by that law.

This bill would authorize a homeownership tax credit, as specified, against those taxes for each taxable year beginning on or after January 1, 2002, for qualified lenders, as defined. The bill would also authorize the committee to allocate housing tax credits to lenders that make qualified 2nd mortgage loans to qualified low-income homebuyers.

The bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 "Homeownership Tax Credit Act of 2001."

3 SEC. 2. (a) The Legislature finds and declares all of the
4 following:

5 (1) It is paramount to sustain a robust economy in California
6 and to ensure strong communities and schools to promote broader
7 homeownership across economic groups.



(2) While more Americans (67 percent) own their homes today than in any time in American history, homeownership in California lags well behind the rest of the states, at 57 percent, with only Hawaii at a lower percentage.

(3) California used to parallel the rest of the nation on housing costs and affordability, yet today the state has seven of the nation's 10 least affordable communities. The median new home price in this state exceeds the national median price by 37.5 percent.

(4) To increase California's homeownership rate to the national average, the state needs one million new homeowners.

(5) Home prices are so high in California that the average newly formed household would have to nearly double its income to qualify to buy the median-priced home.

(6) Homeownership among lower income families lags significantly behind the general population. Low-income homeownership rates are 45 percent while higher income rates are at 86 percent.

(7) These homeownership rates matter because home ownership is the primary path to the middle class for many families. Homeownership has been shown to reduce crime, while increasing school retention and graduation, civic engagement, children's future earning potential, and overall life satisfaction.

(8) Home equity represents two-thirds of all low-income family wealth. The median wealth of nonelderly low-income homeowners is 12 times greater than the median wealth of similar renters with the same income.

(b) The Legislature further finds and declares that a tax credit program that encourages lenders to make second mortgage loans would significantly increase homeownership rates among low-income households. A second mortgage can reduce the amount necessary for the first mortgage loan and thus reduce the amount of the downpayment. The second mortgage can therefore also reduce the monthly loan payments on the first mortgage.

SEC. 3. Section 23610.6 is added to the Revenue and Taxation Code, to read:

23610.6. (a) For each taxable year beginning on or after January 1, 2002, there shall be allowed to a taxpayer who is a qualified lender as a credit against the "tax," as defined in Section 23036, an amount equal to the applicable percentage allocated to the taxpayer pursuant to an approved allocation plan by the

1 California Tax Credit Allocation Committee in the credit
2 allocation year under subdivision (b).

3 (b) (1) The California Tax Credit Allocation Committee shall
4 prescribe the applicable percentage for any year in which the
5 taxpayer is a qualified lender. The percentage with respect to any
6 month in the credit period with respect to the taxpayer shall be
7 percentages which will yield over the period amounts of credit
8 under subdivision (a) which have a present value equal to 100
9 percent of the homeownership tax credit amount allocated to the
10 taxpayer under paragraph (3).

11 (2) The present value under paragraph (1) shall be determined
12 in the same manner as the low-income housing credit under
13 Section 42(b)(2)(C) of the Internal Revenue Code.

14 (3) The aggregate annual amount of credits granted pursuant to
15 this section shall not exceed ____ (\$____), provided that the
16 aggregate amount of the credit granted pursuant to this section for
17 any year subsequent to the year this section is enacted may exceed
18 \$____ per calendar year by an amount equal to any unallocated
19 credits under this section for the preceding calendar year or years.

20 (c) For purposes of this section:

21 (1) “Approved allocation plan” means a written plan, certified
22 by the Secretary, that includes all of the following:

23 (A) Selection criteria for the allocation of credits to qualified
24 lenders that is based on a process in which lenders submit bids for
25 the value of the credit, and that gives priority to qualified lenders
26 with qualified home ownership tax credit loans which are prepaid
27 during a calendar year, for credit allocations in the succeeding
28 calendar year.

29 (B) An assurance that the Tax Credit Allocation Committee
30 will not allocate in excess of 10 percent of the homeownership tax
31 credit amount for the calendar year for qualified homeownership
32 tax credit loans that are neighborhood revitalization project loans.

33 (C) A procedure that the Tax Credit Allocation Committee will
34 follow in monitoring for noncompliance with the provisions of this
35 section and in notifying the Franchise Tax Board of
36 noncompliance with respect to which the Tax Credit Allocation
37 Committee becomes aware.

38 (2) “Credit period” means the period of 10 taxable years
39 beginning with the taxable year in which a home ownership tax
40 credit amount is allocated to the taxpayer.

(A) (i) The credit allowable under subdivision (a) with respect to any taxpayer for the first taxable year of the credit period shall be determined by substituting for the applicable percentage under paragraph (1) of subdivision (b) the fraction (I) the numerator of which is the sum of the applicable percentages determined under paragraph (1) of subdivision (b) as of the close of each full month of the year, during which the taxpayer was a qualified lender, and (II) the denominator of which is 12.

(ii) Any reduction by reason of clause (i) in the credit allowable (without regard to clause (i)) for the first taxable year of the credit period shall be allowable under subdivision (a) for the first taxable year following the credit period.

(B) If a qualified homeownership tax credit loan is disposed of during any year for which a credit is allowable under subdivision (a), the credit shall be allocated between the parties on the basis of the number of days during the year the mortgage was held by each and the portion of the total credit allocated to the qualified lender which is attributable to the mortgage.

(3) “Neighborhood revitalization project” means a project of sufficient size and scope to alleviate physical deterioration and stimulate investment in either of the following:

(A) A geographic location within the jurisdiction of a unit of local government, but not the entire jurisdiction, designated in comprehensive plans, ordinances, or other documents as a neighborhood, village, or similar geographic designation.

(B) The entire jurisdiction of a unit of local government if the population of the jurisdiction is not in excess of 25,000.

(4) “Neighborhood revitalization project loan” means a loan secured by a second lien on a residence, the proceeds of which are used to substantially improve the residence in connection with a neighborhood revitalization project.

(5) “Qualified homeownership tax credit loan” means a loan originated and funded by a qualified lender that is secured by a second lien on a residence and that meets all of the following conditions:

(A) The proceeds from the loan are applied exclusively for either of the following:

(i) To acquire the residence.

(ii) To substantially improve the residence in connection with a neighborhood revitalization project.

1 (B) The principal amount of the loan is equal to an amount
2 which is not less than 18 percent of the purchase price or appraised
3 value of the residence securing the loan, and that amount is either
4 of the following:

5 (i) Not more than the lesser of 20 percent of the purchase price
6 or forty thousand dollars (\$40,000).

7 (ii) Not more than the lesser of 20 percent of the purchase price
8 or appraised value or fifty-five thousand dollars (\$55,000) in the
9 case of a neighborhood revitalization project loan.

10 (C) The proceeds of the loan are not used for settlement or other
11 closing costs of the transaction in an amount in excess of 4 percent
12 of the purchase price or appraised value of the residence securing
13 the loan.

14 (D) The origination fee paid with respect to the loan does not
15 cause the aggregate amount of origination fees paid with respect
16 to any loans secured by the residence:

17 (i) In the case of a neighborhood revitalization project loan, to
18 exceed one percent of the appraised value of the residence which
19 secures the loan, and

20 (ii) In the case of any other loan, to exceed two percent of the
21 appraised value of the residence.

22 (E) The servicing fees of the loan are allocated from interest
23 payments made with respect to the loan.

24 (F) The loan is either:

25 (i) A fixed rate loan amortized over a period of not more than
26 30 years, or any lesser period of time as determined by the lender
27 or the Tax Credit Allocation Committee and the rate of interest of
28 the loan does not exceed the greater of:

29 (I) The excess of the prime lending rate in effect as of the date
30 on which the loan is originated, over 5.5 percent.

31 (II) Three percent.

32 (ii) A 25 year balloon payment loan that meets all of the
33 following criteria:

34 (I) No payment is due on the loan until the earlier of the end of
35 the 25 year term or the date on which the residence that secures the
36 loan is disposed of.

37 (II) Does not prohibit early repayment of the loan.

38 (III) Requires payment on the loan if the mortgagor receives
39 any portion of the equity of the residence as part of a refinancing
40 of any loan secured by the residence.

1 (IV) The rate of interest of the loan is zero percent.

2 (G) The loan is made to a mortgagor who meets all of the
3 following conditions:

4 (i) The mortgagor's family income for the year in which he or
5 she applies for the loan is 80 percent or less of the area median
6 gross income for the area in which the residence which secures the
7 mortgage is located.

8 (ii) The loan would not result in a housing debt-to-income
9 ratio, with respect to the residence securing the loan, or total
10 debt-to-income ratio which is greater than the guidelines set by the
11 Federal Housing Administration (or any other ratio as determined
12 by the Tax Credit Allocation Committee or lender if the ratio is less
13 than the guidelines).

14 (iii) The mortgagor attends prepurchase homeownership
15 counseling provided by the qualified lender or the lender's
16 designee.

17 (iv) The mortgagor has not held title, in part or in whole, on a
18 residential property within the three years prior to the application
19 for the loan.

20 (H) For purposes of this section, the family income of a
21 mortgagor and area median gross income shall be determined in
22 accordance with Section 143(f)(2) of the Internal Revenue Code.

23 (I) The loan is secured by a residence that meets both of the
24 following requirements:

25 (i) Is a single-family residence (including a manufactured
26 home) that is the principal residence of the mortgagor, or can
27 reasonably be expected to become the principal residence of the
28 mortgagor within a reasonable time after the financing is provided.

29 (ii) Is purchased by the mortgagor with a down payment in an
30 amount not less than the lesser of two percent of the purchase price
31 or appraised value, or two thousand five hundred dollars (\$2,500).

32 (6) "Qualified lender" means a lender who meets all of the
33 following conditions:

34 (A) Is an insured depository institution (as defined in Section
35 3 of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(c))),
36 insured credit union (as defined in Section 101 of the Federal
37 Credit Union Act (12 U.S.C. Sec. 1781)), community
38 development financial institution (as defined in Section 103 of the
39 Community Development Banking and Financial Institutions Act
40 of 1994 (12 U.S.C. Sec. 4702)), or nonprofit community

1 development corporation (as defined in Section 613 of the
2 Community Economic Development Act of 1981 (42 U.S.C. Sec.
3 9802)).

4 (B) Makes available, through the lender or the lender's
5 designee, prepurchase homeownership counseling for
6 mortgagors.

7 (C) During the one-year period beginning on the date of the
8 credit allocation, originates not less than 100 qualified
9 homeownership tax credit loans in an aggregate amount not less
10 than the amount of the bid of the lender for the credit allocation.

11 (d) (1) After calendar year 2001, the amounts under
12 subparagraph (B) of paragraph (5) of subdivision (c) shall be
13 increased by an amount equal to the amount, multiplied by the
14 housing price adjustment for the calendar year.

15 (2) For purposes of paragraph (1), the housing price adjustment
16 for any calendar year is the percentage, if any, by which the
17 housing price index for the preceding calendar year, exceeds the
18 housing price index for calendar year 2001.

19 (3) For purposes of paragraph (2), the housing price index
20 means the housing price index published by the Federal Housing
21 Finance Board (as established in Section 2A of the Federal Home
22 Loan Bank Act (12 U.S.C. Sec. 1422a)) for the calendar year.

23 (e) If, during the taxable year, a qualified homeownership tax
24 credit loan is repaid prior to the expiration of the credit period with
25 respect to the loan, the amount of the homeownership tax credit
26 attributable to the loan is no longer available under subdivision (a).
27 For purposes of the preceding sentence, the tax credit is allowable
28 for the portion of the year in which the repayment occurs for which
29 the loan is outstanding, determined in the same manner as provided
30 in subparagraph (A) of paragraph (1) of subdivision (c).

31 (f) (1) The Franchise Tax Board may, upon a finding of
32 noncompliance, revoke any qualified homeownership tax credit
33 amounts allocated by Tax Credit Allocation Committee to a
34 qualified lender.

35 (2) The Tax Credit Allocation Committee shall submit to the
36 Franchise Tax Board, at the time and in the manner as agreed upon
37 by the Franchise Tax Board and the Tax Credit Allocation
38 Committee, an annual report specifying both of the following:

39 (A) The homeownership tax credit amount allocated to each
40 qualified lender for the year.

- 1 (B) With respect to each qualified lender:
- 2 (i) The principal amount of the aggregate qualified
- 3 homeownership tax credit loans made by the lender in the year and
- 4 the outstanding amount of the loans in the year.
- 5 (ii) The number of qualified homeownership tax credit loans
- 6 made by the lender in the year.
- 7 (g) The Tax Credit Allocation Committee shall prescribe
- 8 regulations as may be necessary or appropriate to carry out the
- 9 purposes of this section.
- 10 (h) No portion of the unused business credit for any taxable
- 11 year that is attributable to the homeownership tax credit
- 12 determined under this section may be carried back to a taxable year
- 13 ending before the date of the enactment of this section.
- 14 SEC. 4. This act provides for a tax levy within the meaning of
- 15 Article IV of the Constitution and shall go into immediate effect.

